

Discovery Networks UK

Discovery Networks in the UK has 13 media brands which it sends out via 22 network feeds to more than 130 million cumulative subscribers, received in 85% of UK homes. The Discovery Channel has been the number one factual channel throughout its 20 year history in the UK. It has a 47 percent share of the pay-tv factual market and is funded by a combination of carriage fee and advertising revenue.

Current Threshold Levels for Provision of Access Services

Discovery agrees with Ofcom's assessment that the current system for determining whether a broadcaster should provide access services is fit for purpose. It is our aim to provide services which enable all of our viewers to enjoy as much of our programming as possible but there must be consideration of the feasibility of providing access services for a limited number of an audience which is already very small or where the provision of access services would be disproportionately expensive. Discovery considers the model currently in use to be a suitable compromise and supports its continuation.

However, we are concerned that more discussion is necessary on what the access services regime for VoD should be. This is a nascent sector of the content business. It is important to give it time to develop and evaluate what access service provisions are in place before imposing quotas which may be unrealistic or unnecessary.

Options for Audio Description

Discovery supports an increase in the audio description quotas to 20% for Public Service Broadcasters (PSBs) only at this stage.

We welcome the pragmatic way Ofcom has approached the question of how to ensure audio description services are provided in the most effective way possible. We agree that the key to successful provision of audio description services lies in identifying how to ensure they reach as wide an audience as possible.

Given their high share of viewer figures, even in the multi-channel environment, the PSBs should be considered as the natural choice for any increase in audio description services, as they would be able to reach more viewers at minimal additional cost. Furthermore, PSBs benefit from a number of advantages, including the allocation of spectrum and privileged positioning on the EPG because they also have public service responsibilities. It should be considered part of the PSBs' public service remit to lead the way on access service provision and to promote the uptake of audio description services.

It is also important to consider the possible costs involved in an increased audio description requirement for non-PSBs. Most non-PSBs do not have the economies of scale enjoyed by PSBs. It is therefore more expensive in real terms for them to increase their levels of access service provision. For Discovery, the provision of additional audio description services would be in the region of £70 000 per channel per year. These costs would be further increased if we were required to provide audio description on Discovery feeds in other EU Member States. Often it is very difficult to find the capacity to add audio description to a multi-language feed. Any increase in audio description requirements could have the effect of making feeds to smaller EU markets economically unviable in the future.

We therefore suggest that any increase in quotas for the provision of audio description services be limited to the PSBs and not be applied to channels broadcasting into other EU Member States from the UK.

Extending Obligations to EU Programming From the UK

Discovery provides a number of channels to EU homes from satellite feeds based in the UK. At the moment we provide feeds in 26 languages across Europe and further afield. Many of these are subtitled.

We appreciate that the pan-EU law is changing and that an increasing number of EU broadcast authorities are calling for the provision of access services on channels which are broadcast into their borders from other EU Member States. However, there are a number of issues which make this provision more costly or technically difficult. These should be considered before any decision is reached on what action should be taken in this area. Furthermore, given that many of the measures currently under consideration in other EU Member States seem likely to be directed mainly at terrestrial broadcasters and will require a lower level of commitment, the effect on the competitiveness of UK broadcasters who may find themselves with a greater regulatory burden should be considered.

It is Discovery's belief that there should not be an immediate move to apply the same access services regime to broadcasts into the EU from the UK. It would be more appropriate to wait until all of the relevant Member States have implemented their access services rules and then evaluate what next steps should be, taking into account issues of competitiveness.

If it is decided that there should be access service provision on broadcasts from the UK to other EU Member States, the same thresholds as those already in place should be applied i.e. that only channels with an audience share of more than 0.05% should be liable and any costs in the provision of a service should not exceed 1% of turnover. Where the access services requirements for non-PSBs in the target country are lower than those listed above, UK licensed broadcasters should only be subject to those quotas in order to maintain a level playing field. Furthermore, any access service obligations which are considered necessary should be phased in over a number of years, as they were for UK-facing broadcasts.

Additional considerations are also necessary. There are a number of technical difficulties which can present unforeseen costs or which are technically impossible to work around. There should be flexibility in any regime applied to broadcasts from the UK to other EU Member States which recognises that the same level of access service provision will not be possible across the board.

Discovery has been investigating the feasibility of applying the same access services regime to our overseas feeds as we do in the UK and has encountered the following issues:

- Discovery currently has 35 feeds across Europe in 26 languages. With multiple language feeds it is often impossible to measure audience share for the individual markets they are being sent to. Audience measurement technology is

often less advanced in some EU Member States than others, making it difficult to apply consistent measurement criteria.

- It is unclear from the consultation document how Ofcom would expect to approach this situation. For example, on a multiple language feed how would viewer shares in individual markets be identified? Would an estimate be made on the basis of the overall number of viewers reached by the feed? If this were the case, broadcasters could be obliged to provide access services in markets where they are unlikely to have reached the 0.05% share of audience threshold but it is technically impossible to prove otherwise;
- In some markets it is difficult to find vendors who can supply access services, such as signing and audio description. This tends to be the case in markets where dubbing dominates. It has also proved challenging to find Hard of Hearing subtitlers in some EU markets. Furthermore, sign language differs from country to country and on a multiple language feed, finding the capacity to provide signing for every language included on that feed, could prove prohibitively expensive or even technically impossible. It is also impossible to have a separate signed feed, meaning that all viewers would be required to watch signed programming with no option to switch it off;
- In multiple language feeds, transmission can only support up to 8 audio tracks per channel and if these are already in use for additional language provision, it is not technically possible to add audio description to them;
- The purchase of additional satellite facilities to accommodate the provision of access services as well as the increased number of staff needed to provide those services would cost significantly more than 1% of turnover in the relevant markets. Technical set-up costs should be factored into the calculation as these are substantial. For the Science Channel alone Discovery estimates costs of in the region of £2 million to provide access services across the EU;
- In many of the EU Member States Discovery broadcasts to it uses multiple affiliates. In some Member States there are up to 90 affiliates, all of whom would have to ensure access services were provided. This is likely to prove technically and logistically difficult, as well as costly.

In summary, whilst Discovery is keen to provide as wide a range of access services as possible to the EU Member States in which it is broadcast, the technical and cost implications of doing this are likely to be prohibitive. Indeed, the Ofcom code on access services states that: "Television access services need not be provided if Ofcom is satisfied that this would be impracticable on grounds of technical difficulty, including: provision of subtitling or signing, where a service is broadcast with several different language feeds, making the choice of language for subtitling or signing problematic." We consider this to be the case for our EU feeds at the moment.

Conclusion

Discovery believes that the industry has made a lot of progress in recent years to ensure that access services are provided to those with visual or hearing difficulties. A significant increase in subtitling for the hard of hearing and the founding of the BSLBT to provide programming for the signing community are positive developments, as is Ofcom's work to promote the uptake of audio description.

We are aware of the fact that there is a need to maintain momentum in this area but are concerned that this should not result in broadcasters being overburdened by access quotas which are technically difficult to implement or excessively costly to set up and maintain.

For this reason we agree with Ofcom's conclusion that the current thresholds for the provision of access services should remain in place. We also support any activity which focuses on the use of PSBs, which have larger audience shares and a public service obligation, to provide audio description services.

Our main concern in the context of this policy discussion is the possible imposition of the UK access services regime on broadcasts to other EU Member States. As we make clear in this response, there are a number of technical and cost-related issues which need to be clarified before any further action be taken in this area. Ofcom has not presented any research on audience take-up of these services outside the UK. Nor has it provided figures representing the size of the audience in other Member States which require access services. It is our opinion that the provision of services across multi-language feeds will be more technically complicated and expensive than it might initially seem. We would welcome more research in this area and are happy to share the information we have to date with Ofcom. We recommend in the strongest possible terms that no further action be taken in this area until more evidence has been collected.